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# Before The FEDERAL COMMUNICATIONS COMMISSION ECEIVED Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

In the Matter of

Interconnection and Resale	)	CC Docket No. 94-54
Obligations Pertaining to	)	DA 97-2558
Commercial Mobile Radio Services	)	

### REPLY COMMENTS OF BELL ATLANTIC MOBILE, INC.

BELL ATLANTIC MOBILE, INC.

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### TABLE OF CONTENTS

SUMI	MARY	1
I.	THE RECORD CONTINUES TO SHOW NO PUBLIC INTEREST BASIS FOR IMPOSING AUTOMATIC ROAMING RULES	2
II.	CARRIERS ARE ENTERING INTO AUTOMATIC ROAMING AGREEMENTS IN RESPONSE TO MARKET FORCES	3
III.	THE FEW COMMENTERS REQUESTING A NEW RULE FAIL TO SHOW THAT IT IS NEEDED, AND IGNORE THE PROBLEMS THAT SUCH A RULE WOULD CREATE	7
IV.	IMPOSING A "HOME ROAMING" RULE WOULD BE PARTICULARLY UNJUSTIFIED AND ANTICOMPETITIVE .	10
V.	THE COMMISSION SHOULD TERMINATE CONSIDERATION OF AUTOMATIC ROAMING AND INSTEAD TAKE ACTION IN OTHER LONG-STANDING CMRS PROCEEDINGS	17

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#### SUMMARY

In August 1996, the Commission first asked for comments on whether to impose automatic roaming obligations on providers of commercial mobile radio services, which would require the FCC to regulate the intercarrier agreements which allow for automatic roaming.<sup>1</sup> The record demonstrated that there was no public interest basis or competitive justification for imposing automatic roaming obligations. In December 1997, the Commission asked for further comments to update the record.<sup>2</sup> The further comments demonstrate even more convincingly that there is no factual or legal basis whatsoever for the Commission to consider automatic roaming requirements.

<sup>&</sup>lt;sup>1</sup>Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, Second Report and Order and Third Notice of Proposed Rulemaking, 11 FCC Rcd 9462 (1996).

<sup>&</sup>lt;sup>2</sup><u>Public Notice</u>, "Commission Seeks Additional Comments on Automatic Roaming Proposals for Cellular, Broadband PCS, and Covered SMR Networks," DA 97-2558 (released December 5, 1997).

Bell Atlantic Mobile, Inc. (BAM) agrees with the many parties who have filed supplemental comments opposing adoption of such rules that they are not only unneeded but would distort competition. First, there is no evidence in the record that Commission intrusion into carriers' negotiation of private agreements would serve the public interest. Second, the record in fact establishes that CMRS carriers have successfully entered into hundreds of automatic roaming agreements, including agreements between PCS and cellular carriers, and continue to do so, without government intervention. Third, those few commenters supporting an automatic roaming rule rely on speculation, not facts, and fail to address the many problems that such a rule would create. Fourth, while a few parties seek a rule requiring carriers to enter into agreements with their direct competitors in the same market, such a rule would be particularly unwise and would be anticompetitive, not pro-competitive. BAM urges the Commission to terminate this proceeding, and instead focus its resources on completing the many other dockets affecting the CMRS industry which do need rulemaking action.

## I. THE RECORD CONTINUES TO SHOW NO PUBLIC INTEREST BASIS FOR IMPOSING AUTOMATIC ROAMING RULES.

BAM and many other commenters participating in the first round of comments on automatic roaming pointed out that there was no factual evidence as to how or why automatic roaming obligations would serve the public interest. The supplemental comments again offer no such evidence. The Commission requires all CMRS providers to provide service to customers who roam into their service

areas. 47 C.F.R. § 20.12(c). This "manual" roaming rule ensures that CMRS subscribers can obtain service beyond the service area of their home carrier and thus furthers the Commission's goals of seamless wireless service. But there is no record evidence as to why an <u>additional</u>, <u>automatic</u> roaming obligation is necessary, or how it would serve the public. As many commenters have noted,<sup>3</sup> the Commission relies on market forces, not regulation, to drive development of the wireless industry, resorting to regulation only where there is a compelling public interest basis for doing so. That basis clearly does not exist here.

## II. CARRIERS ARE ENTERING INTO AUTOMATIC ROAMING AGREEMENTS IN RESPONSE TO MARKET FORCES.

The initial round of comments also showed that CMRS providers were entering into automatic roaming arrangements without any government-imposed mandate to do so. The new comments confirm that CMRS carriers, and especially new PCS entrants, continue to enter into numerous such agreements. To the extent the FCC believes that automatic roaming may achieve a public interest need, it now has even more evidence that this need is being met by market forces.

<sup>&</sup>lt;sup>3</sup>AirTouch, for example, reviews in detail the Congressional and Commission policies against any CMRS regulation except where there exists a compelling justification for such regulation. Those policies are premised on findings that free market forces can promote wireless service and respond to needs of customers far better than government-imposed mandates. See Comments of AirTouch Communications, Inc. at 5-8; Implementation of Sections 3(n) and 332 of the Communications Act, Second Report and Order, 9 FCC Rcd 1411 (1994). The record provides no evidence of need for a new automatic roaming rule, let alone the compelling showing the Commission itself requires for new CMRS regulation. See also Comments of Nextel Communications Inc. at 3-4.

None of the trade associations and groups representing facilities-based CMRS carriers filing supplemental comments support adoption of automatic roaming rules. It is particularly notable that groups representing new entrants and smaller carriers are uniformly opposed to such rules.

The Personal Communications Industry Association (which states that it represents "tens of thousands of licensees") had in its initial comments reserved judgment on the need for an automatic roaming rule until PCS carriers were operating. PCIA has now determined that there is no such need and thus "does not advocate adoption of an automatic rule at this time:"

The experience of PCIA's membership, which includes new broadband PCS entrants and 800 Mhz SMR providers, indicates that the fear of anticompetitive conduct by CMRS carriers remain unrealized. PCIA's members have successfully been able to negotiate automatic roaming agreements at market rates and with competitive terms and conditions of service for their customers. Despite fierce competition for customers between incumbents and new entrants, no carriers to date have brought to PCIA's attention any situations where existing carriers have refused to negotiate automatic roaming agreements, negotiated in bad faith, or insisted upon discriminatory contractual provisions.<sup>4</sup>

The Rural Telecommunications Group (RTG), representing smaller CMRS carriers, agrees:

[T]here has been no evidence that the marketplace has proved ineffective in promoting competitive behavior with respect to CMRS roaming. RTG members have not been denied roaming agreements by larger CMRS carriers.<sup>5</sup>

<sup>&</sup>lt;sup>4</sup>Comments of Personal Communications Industry Association at 3.

<sup>&</sup>lt;sup>5</sup>Comments of Rural Telecommunications Group at 2.

The Cellular Telecommunications Industry Association (which states that it represents more PCS and cellular carriers than any other group) reports: "CMRS carriers, including new entrants, are voluntarily and successfully negotiating roaming agreements and joint ventures," particularly PCS-cellular agreements, and supplies detailed information about many such agreements.

The American Mobile Telecommunications Association, representing SMR and other new entrants, reports that "There have been no changes in the SMR marketplace that would support adoption of an automatic roaming obligation."

Many other commenters also demonstrate that the competitive CMRS market is yielding numerous intercarrier roaming agreements, without any government requirement to do so.<sup>8</sup> For example:

- -- GTE, both a PCS and cellular licensee, reports entering into nine agreements between its cellular systems and other PCS carriers.<sup>9</sup>
- -- Sprint Spectrum, a PCS licensee, "has concluded reciprocal roaming agreements with several dozen CMRS carriers across the country, providing automatic roaming coverage for over seventy-five percent of the United States." 10

<sup>&</sup>lt;sup>6</sup>Comments of Cellular Telecommunications Industry Association at i, 3-8.

<sup>&</sup>lt;sup>7</sup>Comments of American Mobile Telecommunications Association at 3.

<sup>&</sup>lt;sup>8</sup>E.g., Comments of United States Cellular Corp. at 7 (USCC has concluded numerous agreements with PCS providers); Comments of Nextel at 3-4 (no evidence of any need for automatic roaming rule); Comments of BellSouth Corp. at 9-10 ("PCS carriers are creating vast automatic roaming networks without FCC intervention").

<sup>&</sup>lt;sup>9</sup>Comments of GTE Service Corp. at 3.

<sup>&</sup>lt;sup>10</sup>Comments of Sprint Spectrum, L.P. at 2-3.

- -- 360 reports entering into "at least five" automatic roaming agreements with PCS carriers.<sup>11</sup>
- -- Southwestern Bell Mobile and Pacific Bell Mobile, which hold both cellular and PCS licenses, report entering into such agreements with "over 175 different carriers," including PCS carriers. 12

These parties argue that there is no factual basis to consider government intervention through new mandatory roaming rules that would require what the market is already achieving in response to competitive needs. BAM agrees. The rapid expansion of PCS and SMR carriers dispels whatever concept the Commission may have had about a potential benefit of such rules. Carriers have multiple alternative partners for roaming agreements. There is even less justification for considering automatic roaming rules today than there was when the Commission first broached the idea.

<sup>&</sup>lt;sup>11</sup>Comments of 360 Degree Communications Co. at 1 ("360 again strongly discourages any Commission regulation of automatic roaming").

 $<sup>^{12}\</sup>mathrm{Comments}$  of Southwestern Bell Mobile Systems, Inc. and Pacific Bell Mobile Services at 3.

<sup>&</sup>lt;sup>13</sup>The rapid growth of PCS continues to accelerate -- without any automatic roaming rule. For example, a recent study of eighteen wireless markets with PCS systems in operation found that PCS was capturing one-third of all new wireless customers, and concluded that these new entrants "are likely to capture a more substantial portion of the wireless market." Communications Daily, January 14, 1998, at 6 (reporting new study by J.D. Power & Associates).

<sup>&</sup>lt;sup>14</sup>See, e.g., Comments of USSC at 3 (automatic roaming rule "has become an even worse idea" since initial comments were filed given rapid growth in CMRS competition); Comments of SBMS at 4 (CMRS carriers are able to "shop" among various carriers to negotiate the best arrangements). Given that the Commission never considered imposition of automatic roaming during the time when CMRS competition was much less extensive, it is hard to conceive of a lawful basis to impose such a rule on today's even more competitive wireless markets.

# III. THE FEW COMMENTERS REQUESTING A NEW RULE FAIL TO SHOW THAT IT IS NEEDED, AND IGNORE THE PROBLEMS SUCH A RULE WOULD CREATE.

Meretel Communications, L.P., a C-block PCS licensee, asks for an automatic roaming rule because it is "unable to effectively compete without some assistance from this Commission." It blames this problem, however, on the timing of the C-block auction, and on the "exorbitant prices paid for the licenses" (presumably including the prices paid by Meretel itself). Having deliberately bid on and obtained PCS licenses, knowing that there was no automatic roaming rule, Meretel asks that the Commission now help it by forcing other carriers to enter into contracts with it. The Commission, of course, does not adopt rules to assist specific competitors. This is particularly true here, where Meretel's situation results from its own voluntary decisions.

Cincinnati Bell Wireless claims that a rule will promote CMRS competition, but then admits that it "is just entering the discussion stages with incumbent operators for wireless services." Cincinnati Bell fails to show that it has been unable to negotiate roaming agreements, thereby undercutting its claim for a mandatory rule.

The Telecommunications Resellers Association (TRA) also supports automatic roaming, but ignores the dispositive fact that resellers have nothing to

<sup>&</sup>lt;sup>15</sup>Comments of Meretel Communications, L.P, at 1-2.

<sup>&</sup>lt;sup>16</sup>Comments of Cincinnati Bell Wireless Company at 6.

offer facilities-based carriers in return for being able to benefit from the networks of those carriers. Roaming has always been premised on the concept of reciprocal exchange of traffic for the carriers' mutual benefit. Without reciprocity, the economic rationale for roaming breaks down. Resellers simply want a free ride from facilities-based carriers. The Commission would have no possible basis for distorting competition by granting resellers a right to automatic roaming.

TRA also offers no facts, only speculation, about market conditions. It claims that CMRS carriers "may exploit" their position, "may have particular incentives" to deny automatic roaming, and "may seek to deny automatic roaming capability." Comments at 3-4. But the carriers that offer facts, not conjecture, show that automatic roaming agreements are, in reality, widespread. Thus TRA's lengthy discussion about the purported benefits of reseller automatic roaming is irrelevant, because it fails to show why government intervention is necessary to achieve those benefits.

TRA attempts to bootstrap its claims as to resellers' difficulty in reaching resale agreements with PCS providers into a basis for requiring automatic roaming, asserting that roaming "is in essence a form of resale." Id. at 4 n. 5. This is absurd; the Commission has never equated the two, has defined them differently, and has adopted different rules governing them. In addition, resellers already have an explicit resale rule that grants them resale rights. 47 C.F.R. § 20.12(b). If resellers believe they are not able to obtain resale agreements, they have a clear remedy -- charge the PCS carrier with a violation of that resale rule. Inability to

engage in resale, even if it exists, does not justify automatic roaming.

None of the parties supporting automatic roaming address the problems that such a rule would create. For example, the record demonstrates the adverse effect of automatic roaming on CMRS carriers' ability to provide wireless local number portability (LNP) and on efforts to develop number pooling solutions to area code exhaustion.<sup>17</sup> BAM agrees that mandatory automatic roaming would exacerbate the many difficulties wireless carriers already face in implementing LNP. As CTIA shows, carriers may have to make all of their switches LNP-compatible in order to implement nationwide automatic roaming -- an obligation that goes far beyond even what the Commission has required for wireless LNP.<sup>18</sup>

The record also identifies the many administrative problems the FCC would face in enforcing an automatic rule, including determining what carriers must charge, what services they must provide, and how the Commission would evaluate the inevitable differences in roaming agreements that reflect different market strategies and situations. Again, the few supporters of new rules ignore this problem. Omnipoint, for example, urges that carriers be required to provide "non-discriminatory" automatic roaming, but then argues that the Commission should

<sup>&</sup>lt;sup>17</sup>See, e.g., Comments of SBMS at 5-7; Comments of GTE at 4-5 (providing automatic roaming in addition to number portability present formidable unsolved technical problems).

<sup>&</sup>lt;sup>18</sup>Comments of CTIA at 13.

<sup>&</sup>lt;sup>19</sup>See, e.g., Comments of USCC (requiring automatic roaming agreements would be "inviting literally hundreds of adjudications" and "hair-splitting litigation" over the terms of such agreements and lead to a "regulatory morass").

not "micromanage" the process.<sup>20</sup> This ignores the reality that, having mandated nondiscriminatory roaming, the Commission will also have to determine what terms in these agreements are lawful. The record already shows that intercarrier roaming agreements (consistent with the need for flexibility and the negotiation process) contain a tremendous variety of terms and prices. The Commission would not be able to intrude into the contract formation process without taking on the complex responsibility of reviewing all of those terms and prices -- and that highly invasive action would go completely against its policy to rely on market forces to promote wireless service.<sup>21</sup>

## IV. IMPOSING A "HOME ROAMING" RULE WOULD BE PARTICULARLY UNJUSTIFIED AND ANTICOMPETITIVE.

The Commission also asked for comment specifically on encompassing in an automatic roaming rule a requirement that CMRS carriers offer "roaming" service to competitors in their own markets. The record shows that such a step is not only unjustified, but would also be seriously anticompetitive.

At the outset, BAM agrees with AirTouch that the Commission's use of the term "home roaming" is inappropriate. "Roaming," as AirTouch shows, is and always has been used to refer to the technology that allows customers who travel

<sup>&</sup>lt;sup>20</sup>Comments of Omnipoint Communications, Inc. at 2.

<sup>&</sup>lt;sup>21</sup>Omnipoint proclaims that it has roaming agreements "with over 70 CMRS providers," Comments at 6, and does not assert it has been unable to reach any such agreements. This fact cannot be reconciled with Omnipoint's call for regulatory intervention into the market, which is already responding to its needs.

to other geographic markets to obtain service, because this was consistent with the goal of enabling wireless subscribers to have service when traveling. The term has not been defined to include providing service to wireless customers of a CMRS carrier's own direct competitor in the same market.<sup>22</sup> The FCC should declare that "roaming" does not encompass provision of service to customers of carriers who are licensed to serve the same geographic market, but refers to customers who seek service when traveling to other markets.

The record identifies the anticompetitive effects that would result from requiring a CMRS carrier to enter into an automatic roaming agreement with a competitor serving the same market. First, the Commission would effectively be dictating to two direct competitors that they must enter into a cooperative agreement -- including the pricing of their services. This would not only be an unprecedented intervention by the FCC into private contractual relationships, but would be intervention of the worst kind -- government-imposed obligations that constrain competition between direct competitors. The Commission's goals for unbridled intra-market competition would be undermined, not promoted, by forcing direct competitors to cooperate in this way.<sup>23</sup>

<sup>&</sup>lt;sup>22</sup>Comments of AirTouch at 12-13.

<sup>&</sup>lt;sup>23</sup>If automatic roaming rules would promote competition, other federal agencies responsible for competitive issues could have been expected to support them. But neither the Federal Trade Commission nor the Department of Justice has done so. Indeed, these agencies would likely be surprised that the FCC were considering a rule which would force competing wireless companies in the same market to cooperate in negotiating prices that they charge each other.

Second, such a requirement would grant some CMRS providers a "free ride" on other providers. As commenters explain,<sup>24</sup> allowing one competitor in a market to exploit a competitor's network in lieu of building out its own network is unfair and one-sided regulation, would seriously distort competition, and would undermine the goal of encouraging carriers to provide facilities-based service.

Third, coverage is a critical basis for consumers to differentiate among competing choices of wireless carriers. Forcing the provision of in-market service to a competing carrier who has not made the investment in infrastructure would undermine that important distinction, and thereby frustrate competition in this way as well. A carrier who has invested (or wants to invest) far less in geographic coverage can nonetheless advertise broad coverage by taking advantage of mandatory automatic roaming to free-ride on the system of a carrier that has made that investment. In this way, competition would not only be distorted (because differences in coverage would be removed), but carriers would have less incentive to build out their own networks, contrary to Congress' and the Commission's goals to promote facilities-based investment in communications infrastructure.

Only three commenters, Cincinnati Bell, Sprint Spectrum and AT&T
Wireless, specifically support requiring intra-market service agreements.

Cincinnati Bell's comments prove how anticompetitive and market-distorting such

<sup>&</sup>lt;sup>24</sup>See, e.g., Comments of AirTouch at 12-16; Comments of Centennial Cellular Corp. at 2-4.

<sup>&</sup>lt;sup>25</sup>See, e.g., Comments of BellSouth at 3.

a requirement would be. Cincinnati Bell attempts to justify forcing its in-market CMRS competitors to serve its own customers because it claims it is not able to build out its own network at this time. It thereby reveals its intent to exploit the existing systems of its competitors for its own benefit, and thereby defer investing in its own network. Cincinnati Bell argues that this anticompetitive result would not occur because of its licensee build-out obligations. But those obligations are minimal. Even after five years, PCS carriers holding A, B and C block licenses need only be serving one third of the population in their licensed area; other PCS carriers need only serve one-quarter. 47 C.F.R. § 24.203. This can easily be achieved by covering the cities that contain most of the population (but only a small part of the geographic areas) of MTAs and BTAs. PCS carriers have no geographic coverage requirements at all.

While Sprint Spectrum opposes automatic roaming rules, it argues that a CMRS carrier's decision not to enter into an automatic roaming agreement with its in-market competitor is unlawfully discriminatory and should be prohibited for that reason. Enforcement of Section 202, however, requires findings that the two services at issue are "functionally equivalent" and that the customers are "similarly situated." Sprint does not establish that either of these prerequisites exist. To the contrary, roaming arrangements between geographically separate

<sup>&</sup>lt;sup>26</sup>Comments of Sprint Spectrum at 2-3.

<sup>&</sup>lt;sup>27</sup>Beehive Telephone, Inc. v. Bell Operating Companies, 10 FCC Rcd 10562 (1995); see Ad Hoc Telecommunications Users Committee v. FCC, 680 F.2d 790 (D.C. Cir. 1982).

carriers are entirely different from an arrangement between direct in-market competitors. Traditional roaming is reciprocal, enables each carrier's customers to receive service while traveling, and provides benefits to both carriers. Forcing one carrier (which will have the more extensive coverage) to serve the other carrier's customers is <u>not</u> reciprocal. The benefits flow to the second carrier -- who is in direct competition with the first carrier.<sup>28</sup>

AT&T Wireless, the nation's largest CMRS carrier, which trumpets its nationwide calling scope in countless promotions and advertisements, nonetheless asserts it needs the Commission's help to compete. It asks for a roaming rule -- reversing its position in the first round of comments. AT&T's concern, however, is not roaming generally, but its desire to obtain in-market roaming in some markets it is already licensed to serve.

AT&T wants a rule that will entitle it to benefit from using the systems of its direct competitors (all of which are smaller than it is). But AT&T's argument is flawed for numerous reasons. First, it fails to show why the absence of such a rule has harmed its customers or impaired wireless competition. Second, it offers no facts to show how competition would be tangibly enhanced were its competitors forced to offer it home service. Third, it incorrectly speculates that its inability to obtain some agreements must mean that smaller carriers would also benefit from

<sup>&</sup>lt;sup>28</sup>Before it even considers Sprint's theory, moreover, the Commission would need to address and reject AirTouch's detailed argument that automatic roaming is not a common carrier service at all, but is instead a billing arrangement. Comments of AirTouch at 8-11.

a mandatory rule. The record in fact shows that PCIA and other groups representing such carriers oppose any rule.

Fourth, AT&T's arguments are self-contradictory. For example, after claiming that resale is unlike automatic roaming and is not a substitute for it (Comments at 5-6), AT&T argues that automatic roaming rule would be a "mirror image" of the resale rule and that the existence of the resale rule justifies imposing automatic roaming (Id. at 7). Other examples abound:

- -- In its initial comments, AT&T relied on the benefits of manual roaming as one reason not to mandate automatic roaming, but now belittles manual roaming as discouraging wireless phone use.<sup>29</sup>
- -- In its initial comments (at 2), AT&T warned that mandating automatic roaming would result in "an elaborate, administratively burdensome regulatory framework," yet it now ignores that problem.
- -- In its initial comments (at 4 n. 6), AT&T argued that an automatic roaming rule would be redundant because Section 202 of the Act already prohibits unlawful discrimination. Section 202, of course, still exists. Yet AT&T's new comments fail to explain why the rule it now wants would no longer be superfluous, and AT&T simply ignores its previous Section 202 argument altogether.
- -- In its initial comments (at 6), AT&T argued that "an automatic roaming rule would also be harmful to the CMRS industry as a whole because it has the potential to discourage network buildout and technical innovation." BAM agrees, as do many other commenters. Yet now AT&T rejects its own argument, reversing course and this time claiming that the rule will not discourage buildout. Comments, filed January 5, 1998, at 8-9.
- -- In recent comments in another docket, AT&T Wireless declared that "reliance on market forces in lieu of regulation is central to the statutory scheme" of Section 332, and that "the Commission's

<sup>&</sup>lt;sup>29</sup>Compare AT&T Comments, filed October 4, 1996, at 5, with AT&T Comments, filed January 5, 1998, at 2 n. 4.

expectations that the CMRS market would become increasingly competitive over time has been borne out."<sup>30</sup> AT&T does not mention those points in <u>this</u> proceeding, but inconsistently argues for more regulation despite asserting that there is more competition.

AT&T's claims as to the benefits of mandatory automatic roaming are also undercut by its own actions denying customers those same benefits, when it could not achieve the home service from one of its competitors that it demanded in order to benefit its own market position. AT&T directly competes against BAM's affiliate, Southwestco Wireless, L.P., in the Phoenix market, where AT&T, as licensee for the much larger Phoenix MTA, enjoys a much larger license area. Southwestco denied home service to AT&T's Phoenix system because doing so would grant AT&T a free ride on Southwestco's own infrastructure investment. AT&T retaliated by terminating automatic roaming for all of its own customers who traveled to any of Southwestco's markets, and also terminated automatic roaming for all Southwestco customers who traveled to any AT&T markets, which (as AT&T constantly advertises) stretch nationwide. AT&T acknowledged to the Commission that "although this strategy may be successful, it will degrade service for AWS's and Southwestco's customers."<sup>31</sup> As AT&T notes (Comments at 5 n.12), its dispute with Southwestco was settled -- without any Commission rule. This underscores the lack of need for the Commission to intervene in these agreements.

<sup>&</sup>lt;sup>30</sup>Southwestern Bell Mobile Systems, Inc., Petition for Declaratory Ruling, File No. 97-31, Comments of AT&T Wireless, Inc., filed January 7, 1998.

<sup>&</sup>lt;sup>31</sup>Ex parte Letter, filed in CC Docket No. 94-54, from Cathleen Massey, AT&T Wireless, to David Furth, Chief, Commercial Wireless Division, May 13, 1997.

AT&T's own explanation of how it "negotiates" roaming should give the Commission even more pause in considering the rule it requests. AT&T notes that it negotiates roaming agreements "collectively on behalf of its substantial existing cellular customer base and its new PCS markets." Comments at 5. This leveraging of AT&T's leading market position was used against Southwestco, and could be used against other smaller competitors were the rule AT&T wants adopted. AT&T threatened Southwestco that failure to provide home service would lead to loss of roaming service on, as A&T says, its "nationwide cellular network," not just on PCS systems, and AT&T carried out that threat until the dispute was settled. While use of such leverage may be the result of market position, the Commission should not by rule give AT&T license to invoke that leverage. That, however, would be the anti-competitive result of adopting the rule AT&T wants.

# V. THE COMMISSION SHOULD TERMINATE CONSIDERATION OF AUTOMATIC ROAMING AND INSTEAD TAKE ACTION IN OTHER LONG-STANDING CMRS PROCEEDINGS.

The supplemental record in this proceeding establishes even more convincingly that an automatic roaming requirement would have no factual basis or legal justification. The Commission should close its consideration of this matter without imposing any new rule. Instead, it should focus its resources on completing many other long-standing proceedings which directly affect the CMRS industry, where the record closed as much as three years ago. For example:

-- Petitions for reconsideration of the Commission's decision revising the Part 22 rules for mobile services (CC Docket No. 92-115) have been pending since December 1994.

-- Petitions for reconsideration of the Commission's rulemaking to implement Section 332 of the Act (CC Docket No. 93-252) have been pending since December 1994.

-- A petition for declaratory ruling on the Roseville, Minnesota law on franchising of CMRS providers has been pending since October 1995.

-- Requests that the Commission streamline its rules for processing CMRS applications (PP Docket No. 96-17) have been pending since March 1996.

-- Petitions for reconsideration of the Commission's CMRS resale rule (CC Docket No. 94-54) have been pending since August 1996.

-- CTIA's petition for a declaratory ruling on siting of towers for CMRS facilities has been pending since December 1996.

-- The Federal Communications Bar Association's petition for forbearance addressing pro forma transfers of control of CMRS licenses has been pending since February 1997.

Bell Atlantic Mobile urges the Commission to turn its attention to completing these proceedings.

Respectfully submitted,

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